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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Phillips et al.

Serial No.: 10/613.424

Filing Date: July 2, 2003

For: Surgical Retractor With Improved Arms

Examiner: D. Comstock

Group A.U.: 3732

Mail Stop Non-Fee Amendment

Commissioner for Patents

P. O. Box 1450

Alexandria, Virginia 22313-1450

RESPONSE TO FINAL OFFICE ACTION

Dear Sir:

In the Final Office Action dated March 8, 2005, the Examining Attorney reiterated the rejections of the September 9, 2004, Office Action almost verbatim.

The applicant provided a structural limitation to the claims which required the "middle segment of the first arm to be angled toward the second arm laterally displacing the third segment relative to the first segment toward the second arm." In the response to arguments, the Examiner states: "A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art." Unfortunately, the Office Action characterizes the structural limitation as an "intended use" which is not believed to be accurate.

The applicant respectfully requests the Examining Attorney reconsider this position to avoid the necessity of filing an Appeal as it relates to these claim limitations which are not believed to be taught by the cited references.

Respectfully submitted,

Date: March 18, 2005

By: 

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

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Commissioner for Patents
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on this 18th day of March, 2005.

By: Beverly L. Middleton
Beverly L. Middleton